HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HONOURABLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1231 OF 2006
AND
WRIT PETITION No.22190 of 2006

Between:

M/s. Sri Yogeshwara Industries,
represented by its Managing Partner,
Goli Srinivas, Khanapur Village,
Nizamabad District. … Appellant/
Petitioner.

And

Authorised Officer,
State Bank of Hyderabad,
Dubba (New Gunj) Branch and others. …Respondents/
Respondents.

:: **J U D G M E N T** ::

Counsel for the appellant : Sri Ch.Janardhan Reddy

Counsel for respondent Nos. 1 & 2 : Sri Ch.Ravindra Babu

27th November 2006

Per G.S.SINGHVI, C.J.

This is an appeal for setting aside order dated 3-11-2006 passed by the learned Single Judge in Writ Petition No.22190 of 2006, whereby she rejected the appellant's challenge to the sale of its property in furtherance of the action initiated by the State Bank of Hyderabad under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

At the threshold of hearing, we pointed out to the learned counsel for the appellant that the writ petition filed by his client suffered from the following two fatal defects:

1) Non-impleadment of the State Bank of Hyderabad from whom it had taken loan as party respondent.

2) It had not challenged orders dated 31-3-2006 and 30-5-2006 passed by Debts Recovery Tribunal, Hyderabad Bench and Debts Recovery Appellate Tribunal, Chennai Bench.

By taking note of the observations made by the Court, learned counsel for the appellant made a request that his client may be permitted to withdraw this appeal along with Writ Petition No.22190 of 2006 with liberty to institute fresh petition on the same cause and also challenge the orders passed by the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal.

Sri Ch.Ravindra Babu, learned counsel appearing for respondent Nos.1 and 2 says that he does not have any objection if leave is granted to the appellant to withdraw the appeal and the writ petition, but his clients may be permitted to raise objection to the maintainability of the fresh petition on all legally permissible grounds.

In view of the above, the request of the learned counsel for the

appellant is accepted and the writ appeal is dismissed along with Writ Petition No.22190 of 2006 with liberty in terms of the prayer made. At the same time, we make it clear that State Bank of Hyderabad, which may be impleaded as party respondent in the fresh writ petition to be filed by the appellant, shall be entitled to raise all legally permissible objections.

As a sequel to dismissal of the writ appeal as withdrawn, WAMP. No.2550 of 2006 filed by the appellant for interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

27th November, 2006.

C.V.NAGARJUNA REDDY, J.

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